

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

MELAINE R. WILSON,
Plaintiff

vs.

JOHN HUSSMAN, SR.,
Defendant

5:22-cv-5091

MEMORANDUM OPINION
AND ORDER GRANTING IN
FORMA PAUPERIS STATUS
FOR APPEAL

On November 15, 2022, Movant, Melaine Wilson, filed a Complaint seeking damages and other relief based on allegations Defendant raped her when she was a foster child in his care. (Doc. 1). She alleged that the abuse occurred in 1978-79. (Id.). Movant filed a request for in forma pauperis status and supplied the requested information. (Doc. 2).

An individual who seeks to proceed in forma pauperis must demonstrate financial eligibility to proceed without prepayment of fees. *Martin-Trigona v. Stewart*, 691 F.2d 856, 857 (8th Cir. 1982); see *Schied v. U-Haul International, Inc.*, 2021 WL 3287708, *1 (D.S.D. 2021). To obtain in forma pauperis status, the individual must submit an affidavit detailing assets and must state he or she is unable to pay the required fees or give security for them, and is entitled to redress.

28 U.S.C. § 1915(a)(1). The litigant is not required to establish absolute destitution. *Lee v. McDonald's Corp.*, 231 F.3d 456 (8th Cir. 2000).

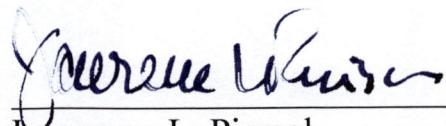
The Court granted Wilson's motion to proceed in forma pauperis in the District Court, finding that her military retirement and disability payments, coupled with her minimal assets and significant expenses, rendered her unable to pay the applicable filing fee. (Doc. 5). In addressing the merits of the Complaint pursuant to 28 U.S.C. § 1915(e)(2), the Court determined the claim was filed outside of the applicable statute of limitations. (Doc. 5). The Court entered a judgment of dismissal on February 15, 2023. (Doc. 6).

Movant appealed the dismissal on April 25, 2023, (Doc. 7), and has moved for in forma pauperis status on appeal, (Doc. 8). Movant has filed an updated statement of her income, assets, and expenses. (Id.). The Court notes that Wilson's itemization of her current expense for food has increased substantially from her prior statement of expenses, which appears to be attributable to a spouse's addition to the household. (Doc. 2, 8). The Court also notes the substantial amount of student loan debt and the notation of a monthly payment of that debt that she has added to the current statement of expenses. (Doc. 8). The Court finds that Wilson's stated income, assets, and expenses are such that she has insufficient funds to pay the filing fee on appeal. 28 U.S.C. § 1915(a). Therefore, the Court grants her motion to proceed in forma pauperis on appeal. (Doc. 8).

Accordingly, IT IS ORDERED that Wilson's motion for leave to proceed in forma pauperis on appeal, Doc. 8, is granted.

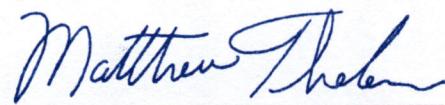
Dated this 2nd day of May, 2023.

BY THE COURT:



Lawrence L. Piersol
United States District Judge

ATTEST:
MATTHEW W. THELEN, CLERK



Matthew W. Thelen